

January 14, 2022

Hon. Valerie E. Caproni
United States District Court
Southern District of New York
40 Foley Square, Room 240
New York, NY 10007

Re: **Joint Discovery Report**
Linda Evangelista v. Zeltiq Aesthetics, Inc.,
United States District Court for the Southern District of New York
Case No.: 1:21-cv-07889-VEC

Your Honor:

This office represents Defendant Zeltiq Aesthetics, Inc. (“Zeltiq”), in the above-referenced action. In accordance with the Court’s order (ECF No. 19), this Joint Discovery Report is submitted jointly with Daniel F. Markham, Michael J. Levin, and Jodie Gerard of Wrobel Markham LLP, who are counsel for Plaintiff Linda Evangelista.

A. Protective Order

The parties are negotiating draft language for a protective order. Zeltiq initially circulated a draft on December 2, 2021, and Plaintiff’s counsel provided revisions to the draft on January 3, 2022. Zeltiq provided additional revisions and comments back to Plaintiff’s counsel on January 5, 2022, addressing Plaintiff’s edits. The parties intend to submit the protective order as agreed in the coming week.

B. Written Discovery

Zeltiq served its first set of interrogatories and request for production of documents on December 16, 2021. Plaintiff’s deadline to respond to these requests is January 18, 2022.

C. Medical Records Release Authorizations

As the Court will recall, on December 8, 2021, Zeltiq sent Plaintiff form authorizations for 5 providers discussed during the December 7, 2021 teleconference with the Court, as well as 5 additional authorizations for providers to which plaintiff agreed to provide authorizations.

On December 21, 2021, Plaintiff's counsel provided the 10 signed authorizations. With those authorizations, Plaintiff's counsel notified Zeltiq that Plaintiff had a previously undisclosed CoolSculpting treatment performed in May 2014. In light of this discovery, Plaintiff's counsel dated the authorizations to allow record collection beginning May 2011, in accordance with the parties' agreement for Plaintiff to provide authorizations for records dating back 3 years prior to the earliest CoolSculpting treatment. Zeltiq has begun issuing records requests using these authorizations.

D. Motion to Dismiss

On December 21, 2021, Zeltiq filed a Motion to Dismiss under Federal Rule of Procedure 12(b)(6). Plaintiff requested—and Zeltiq agreed to—an extension of Plaintiff's response date to January 18, 2022, as well as Zeltiq's reply deadline to February 1, 2022, which the Court granted on December 22, 2021.

Dated: January 14, 2022

Respectfully submitted,

By: s/Alyson B. Jones

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